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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ALFRED T. SAPSE and RALPH M.
14 CONTI,

15 Defendants.
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Case No. 2:10-CR-00370-KJD-RJJ

ORDER

17 Presently before the Court is Defendant Ralph M. Conti's Motion *in Limine* (#122) seeking to
18 exclude expert testimony until qualifications are established under Daubert v. Merrell Dow Pharms.,
19 509 U.S. 579 (1993). The United States filed a response in opposition (#125) to which Conti replied
20 (#133).

21 It appears that Defendant's primary argument is that some of the suggested expert testimony
22 to be provided by Government witnesses is not relevant. However, relevance is an issue that is best
23 decided at the time the testimony is offered at trial, based on the foundation laid by the party that
24 called the witness and the factual issues that are disputed based on the counts in the indictment and
25 the testimony of the witnesses, including cross-examination. Of course, before a party may be
26 accepted as an expert by the Court, a foundation for that designation must be provided. Failure to do

1 so would result in the Court excluding the expert. However, since Defendant has identified no
2 particular grievances with the proposed experts, other than the factual and temporal relevance of the
3 proposed testimony, the Court has nothing to decide. Therefore, the motion is denied without
4 prejudice.

5 DATED this 29th day of October 2012.

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Kent J. Dawson
United States District Judge